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Report of the Secretary-General on Ethiopia and Eritrea

I. Introduction

1. The present report is submitted pursuant to paragraph 12 of Security Council resolution 1320 (2000) of 15 September 2000, by which the Council requested me to keep it closely and regularly informed of progress towards the implementation of this resolution. The report provides an update on developments in the Mission area and describes the activities of the United Nations Mission in Ethiopia and Eritrea (UNMEE) since my previous report dated 1 November 2007 (S/2007/645).

II. Situation in the Temporary Security Zone and adjacent areas

2. The military situation in the Temporary Security Zone and adjacent areas remained tense during the period leading up to the Eritrea-Ethiopia Boundary Commission deadline of 30 November for demarcation of the boundary. Both Eritrea and Ethiopia continued to reinforce their military deployments in the border area. The Eritrean Defence Forces continued to induct troops into the Temporary Security Zone. Since 1 November, UNMEE has observed some 500 newly deployed Eritrean soldiers in the Zone in Sector West, 300 in Sector Centre and 100 in Subsector East.

3. UNMEE also observed Eritrean troops participating in various training activities, involving small arms and mortars, inside the Temporary Security Zone in Sector Centre, and tanks near Assab, outside the areas adjacent to Subsector East. On 28 and 29 November, the Mission observed an Eritrean armoured personnel carrier and five artillery guns in the area adjacent to the Temporary Security Zone in Sector Centre. On 23 December, the Mission observed three tanks deployed in the Zone in Sector West. In addition, UNMEE assesses that considerable numbers of troops entered the Zone in all sectors using newly constructed alternate routes, which enable them to bypass UNMEE's static check posts to avoid detection.

4. A significant number of regular Eritrean troops are now deployed along multiple defensive lines in all sectors. Eritrean forces also continued to fortify and build new defences. Some 17 new Eritrean camps were established in the Temporary Security Zone and areas adjacent to it during the reporting period. A number of new check posts were also erected inside the Zone. In late October, UNMEE observed Eritrean troops building 21 new bunkers inside the Zone in Sector Centre and a

defensive stone wall near the village of Serha, also in the Zone in the same Sector. The Eritrean Defence Forces have also dug new trench lines in the Zone.

5. For their part, the Ethiopian Armed Forces conducted training and advanced some 2,300 additional troops deeper into the border areas in Sector West. They also constructed new defences in areas adjacent to Subsector East. In late October, Ethiopian forces built a two-kilometre trench line with bunkers in Subsector East.

6. On 22 and 27 October, in the first such occurrence, an Ethiopian military helicopter carried out an aerial reconnaissance over the border town of Zela Ambessa, in Sector Centre. On 24 November, 16 Ethiopian armoured personnel carriers were observed at a location near the strategic Mereb Bridge in Sector Centre. On 26 December, UNMEE observed three surface-to-air missile launchers, a target-acquisition radar and a command post being deployed in areas adjacent to Sector Centre. Ethiopia also continued to maintain a strategic reserve force, which is located approximately 150 kilometres south of the areas adjacent to Sector West. Though UNMEE has not been able to determine the exact strength of the reserve force, it is likely to comprise a number of infantry and mechanized divisions that are equipped with weaponry, including heavy equipment with a defensive and offensive capability.

7. On 22 October, Ethiopian forces alleged that Eritrean troops crossed the border to collect stones for the construction of the stone wall in Sector Centre mentioned in paragraph 4 above. On 1 December, the Ethiopian forces deployed in the Zela Ambessa area, opposite Serha, threatened to open fire at any Eritreans who crossed the borderline into Ethiopia to collect stones for the construction of the stone wall. UNMEE mediated between the two sides and prevented the situation from escalating. The Eritrean Defence Forces have since reduced the number of military personnel working at the construction site. On 21 November, two Ethiopian youths from Zela Ambessa in Sector Centre alleged that they had been detained for two hours by Eritrean troops. UNMEE was unable to verify these allegations.

8. On 26 December, Ethiopian and Eritrean forces exchanged gunfire near the village of Tserona in Sector Centre. Both Eritrea and Ethiopia granted UNMEE access to the location of the incident for an investigation. While both parties acknowledged the incident, they accused each other of initiating the attack. Eritrea stated that it captured two "prisoners of war" during the incident.

9. UNMEE assisted the parties in resolving other cross-border incidents, including cases of livestock-rustling. On 8 November and 24 December, six Ethiopian children, who had inadvertently crossed the border into Eritrea from Zela Ambessa in Sector Centre, were repatriated with UNMEE's assistance. UNMEE's medical service also continued to provide medical assistance to civilians on both sides of the border.

III. Restrictions imposed on the United Nations Mission in Ethiopia and Eritrea

10. Eritrea continues to maintain all previously imposed restrictions on UNMEE. The ban on United Nations helicopter flights in Eritrean airspace, introduced in October 2005, remains in force, depriving the Mission of critical capacity to carry out emergency medical evacuation. The Government of Eritrea also continues to

refuse to accept UNMEE personnel who are nationals of certain Member States, including the United States of America, Canada and European countries.

11. Eritrea also maintains the 45 permanent (longer than six months) restrictions on UNMEE's freedom of movement in a number of areas. The Mission is also banned from carrying out night patrols. UNMEE patrolling is still restricted to the main supply routes within the Temporary Security Zone in all Sectors. In addition, Eritrea continues to block UNMEE traffic across the strategic bridges in Sector West between Om Hajer, in Eritrea, and Humera, in Ethiopia, and between Shilalo, in Eritrea, and Shiraro, in Ethiopia.

12. Since September 2006, Eritrea has imposed restrictions on the supply of diesel fuel to UNMEE. Furthermore, since 1 December 2007, the Mission has not received any fuel from its suppliers in Eritrea. This has created critical fuel shortages, forcing UNMEE to reduce certain important operational activities, including patrols, demining and the provision of administrative support to regional locations and team sites. The Mission has already had to reduce the use of generators in its camps and some checkpoints in the field to two hours a day and has begun experiencing serious difficulties in sustaining its troops and military observers and in maintaining reliable communications between its field posts and team sites. UNMEE has repeatedly raised this matter with the Eritrean Commissioner. On 24 and 26 December 2007, my Deputy Special Representative addressed a letter to the Commissioner on the issue and also met with him to underscore the gravity of the situation. In addition, UNMEE has requested permission to import fuel from the United Nations Mission in the Sudan (UNMIS), as a temporary relief measure. Although the Commissioner assured UNMEE that he had submitted a favourable recommendation to the Petroleum Authority, UNMEE has yet to receive a reply to its request. On 15 January, UNMEE reported that if the situation was not resolved through the immediate provision of fuel authorized by the Government of Eritrea, the Mission would be compelled to initiate the relocation of its personnel from Eritrea, and effectively halt its operations. Continued restrictions of fuel supplies to the Mission are likely to force it to halt more of its critical operations in the near future and would have a major negative impact on the ability of the Mission to implement its mandate in just a few days after the issuance of the present report.

13. On 11 November, an UNMEE military observer patrol in Sector West was stopped at gunpoint at an Eritrean Defence Forces check post and ordered to return to its base, while on 11 and 13 November, a group of 10 to 15 Eritrean Defence Forces personnel ordered UNMEE to remove the barrier at a check post on the road in Sector Centre. On 2 and 4 December, a truck carrying rations for UNMEE's observer post was stopped in Sector West at an Eritrean Defence Forces check post and forced to return to its base. Following UNMEE protests after these incidents, Eritrean forces restrained themselves from stopping and turning back UNMEE vehicles in the area. However, on 10 January, an UNMEE vehicle belonging to the Mine Action Coordination Centre was stopped at a militia checkpoint at Shambiko, in Sector West. Subsequently, UNMEE discovered that the two drivers of the vehicle — members of UNMEE local staff — had been arrested allegedly for not having completed national service and were detained. Although UNMEE submitted documents to the Eritrean authorities proving that the drivers had completed national service, the drivers have not been released. The UNMEE vehicle was also compounded.

14. On the Ethiopian side, on 23 November, an UNMEE patrol was detained for two hours at an Ethiopian Armed Forces check post north of Badme, in Sector West. The Mission lodged a protest with the Ethiopian authorities, who explained that the newly deployed soldiers were not familiar with procedures concerning UNMEE. The Mission has not faced any other restrictions by Ethiopia.

IV. Military Coordination Commission

15. Since the 37th meeting of the Military Coordination Commission held on 31 July 2006, UNMEE has not been able to convene further meetings of the Commission. Ethiopia maintains that it will resume participation in the Commission upon the full restoration by Eritrea of the integrity of the Temporary Security Zone. For its part, Eritrea insists that it will attend meetings of the Commission as soon as Ethiopia resumes its participation. Despite UNMEE efforts undertaken in its regular contacts with Ethiopian officials at all levels, their position has not changed.

V. Implementation of Security Council resolution 1767 (2007)

16. I regret to report that the parties have not complied with the demands of the Security Council contained in its resolution 1767 (2007) of 30 July 2007, as specified in paragraph 43 below. In a letter dated 19 November 2007, addressed to the President of the Eritrea-Ethiopia Boundary Commission, the President of Eritrea accepted the boundary demarcation by map coordinates, "as an important step forward towards the demarcation on the ground", and urged the Commission to persist until the erection of pillars, "to bring the process to its natural conclusion". Since then, President Isaias Afwerki of Eritrea has repeatedly stated that the border issue has been "legally resolved", and that Eritrea considered the border demarcated. He reaffirmed this position in an interview on the New Year's Day, which was broadcast on Eritrean television on 5 January.

17. Furthermore, in her letter dated 29 November, addressed to the President of the Eritrea-Ethiopia Boundary Commission, the Eritrean Legal Adviser to the President acknowledged as "both final and valid" the demarcation coordinates that the Commission has specified, while stressing that Eritrea also considered these coordinates "as binding as other Commission's decisions". For its part, Ethiopia has maintained its position that demarcation by map coordinates has no legal force or effect. In a letter addressed to the President of the Eritrea-Ethiopia Boundary Commission on 27 November 2007, the Minister for Foreign Affairs of Ethiopia stated that the "demarcation coordinates are invalid because they are not the product of a demarcation process recognized by international law".

18. The Assistant Secretary-General for Peacekeeping Operations travelled to the region and met separately with the Ethiopian Prime Minister and the Eritrean President on 8 and 9 November 2007, respectively. He conveyed to the two leaders my concern about the military build-up in the border area and urged them to exercise restraint and pull their forces back in order to avoid an accident that could escalate.

19. On 20 November, I addressed identical letters to the President of Eritrea and the Prime Minister of Ethiopia to express my concern over the increasing tensions

on the ground, urging them to take immediate steps to ease tensions, avert a possible incident, which could result from the military build-up and the proximity of their forces, and reactivate the Military Coordination Commission. On 23 November, in his letter of reply, the Prime Minister of Ethiopia welcomed my involvement and supported my efforts to be a bridge between the two countries. In his letter dated 24 November, the President of Eritrea denied that there was a military build-up on the Eritrean side of the border and called upon the United Nations to shoulder its responsibilities to ensure the rule of law and the prevalence of justice.

20. On 29 November, I wrote again to the Ethiopian and Eritrean leaders, proposing to dispatch my Under-Secretary-General for Political Affairs to both capitals to discuss ways to begin the demarcation process, in accordance with the Algiers Agreements. Ethiopia welcomed the proposal. In his letter dated 3 December, the President of Eritrea reiterated his objection to "alternative mechanisms" to the Eritrea-Ethiopia Boundary Commission. Consequently, the proposed visit has yet to take place.

21. On 11 December, I sent a letter to the President of the Security Council informing him of the steps I had undertaken to engage the parties since 13 November 2007. Subsequently, in his letter dated 21 December, addressed to the President of the Security Council, the President of Eritrea stated that my 11 December letter was "out of consonance with the reality at hand". He observed that "Ethiopia's refusal to vacate Eritrean territory constitutes a gross violation of the Charter of the United Nations". The letter also called on the Council to "redress this injustice in accordance with its legal responsibilities under the Algiers Agreement, the Charter of the United Nations and general principles of international law".

22. In a related development, Eritrea's official media reported that, in his address to a meeting of the Cabinet on 27 December, the President of Eritrea underlined that, "the border issue in its legal, political and technical aspects was concluded, thus marking the culmination of the Algiers Agreement". Furthermore, in his letter dated 15 January 2008, addressed to the President of the Security Council, the President of Eritrea acknowledged that the Eritrea-Ethiopia Boundary Commission has terminated its functions by completing its work through "virtual demarcation" and that "the boundary is demarcated". The letter also states that "UNMEE has now been left, after five and a half years, with no option other than 'maintaining occupation', and urges the Security Council to compel the evacuation of the 'army and institutions of the Ethiopian regime occupying our sovereign territories to prevent other unnecessary developments'".

23. In a letter dated 18 January 2008, addressed to me, the Minister of Foreign Affairs of Ethiopia contended that the Commission's virtual demarcation "has no validity in international law" and that attempts to equate the status of the Commission's Delimitation Decision of 13 April 2002 and the Statement of 27 November 2006 were "entirely unacceptable", as "it was clear from the Commission's mandate that there could be no equation between the two" and, therefore, they "cannot be equally binding". The letter stressed that Ethiopia fully accepted the Delimitation Decision of 13 April 2002 as final and binding and is committed to its implementation and full demarcation of the border, and added that this remained impossible unless and until Eritrea fully accepts its fundamental obligations and restores the full integrity of the Algiers Agreements.

24. Also on 18 January, the Minister of Foreign Affairs of Ethiopia sent a letter to the President of the Security Council in which he described the Commission's "virtual demarcation" as "legal fiction". The letter also stressed that Eritrea was in breach of the Agreement on Cessation of Hostilities as it has completely violated the demilitarized Temporary Security Zone and urged the Council to take appropriate measures against "the party that has violated the provisions of the ceasefire agreement".

25. With regard to paragraph 14 of resolution 1767 (2007), in which the Council welcomed my ongoing efforts towards the earliest appointment of a Special Representative, I would like to inform Council members that in December 2007, the Secretariat proposed to the Permanent Missions of Ethiopia and Eritrea a candidate for the post of my new Special Representative, for their consideration. In early January, the Secretariat approached the Permanent Missions of Ethiopia and Eritrea again to inform them that unless they would advise to the contrary, I intended to proceed with the appointment. By mid-January, both Ethiopian and Eritrean Missions informed the Secretariat that their capitals, for various reasons, would appreciate it if I did not move forward with the appointment at this time. I will keep the Council informed of any further development on this matter.

VI. Eritrea-Ethiopia Boundary Commission

26. A detailed account of the work of the Commission is contained in annex II to the present report. As indicated in that report, the parties have made no progress towards the implementation of the delimitation decision announced by the Eritrea-Ethiopia Boundary Commission on 13 April 2002. Consequently, on 30 November, the Commission sent the maps signed by the Commission members, indicating the demarcated boundary points (coordinates), to the Permanent Missions of Ethiopia and Eritrea to the United Nations. On the same day, the Commission also issued its final press release, reiterating its statement of 27 November 2006.

VII. Mine action

27. The UNMEE Mine Action Coordination Centre continued humanitarian demining activities, clearing 473,382 m^2 of agricultural land and preparing 243,747 m^2 for future clearance inside the Temporary Security Zone in Sector Centre. A further 6,670 m^2 of agricultural land and 895 km of roads were cleared or assessed for the possibility of newly laid mines in the Badme area in Sector West.

28. On 11 November, Eritrean militia ordered UNMEE to suspend demining activities in Sector Centre without providing any reason. However, the Mission was allowed to resume operations on 10 December, after discussions with the authorities, both at the local level and in Asmara. Subsequently, restrictions were imposed on the disposal of unexploded ordnance in the area of Assab in Subsector East from 12 November to 31 December.

29. During the reporting period, the Mission destroyed 11 anti-tank mines, 18 anti-personnel mines and 292 pieces of unexploded ordnance. UNMEE also conducted mine risk education for some 9,000 local residents in Sectors West and Centre. Three mine-related incidents were reported during this period. On 1 December, a

truck struck a mine in Sector West, without any casualties involved. On 7 December, a mine exploded in the Humera area, also in Sector West. A Chinese road construction contractor and a local civilian sustained injuries as a result of the explosion. The investigation carried out by the Mine Action Coordination Centre revealed that the mine was likely to have been newly planted. On 21 December, a vehicle belonging to UNMEE's demining contractor was struck by a mine explosion. No personnel sustained injuries, but the vehicle was severely damaged. The incident took place on a road that had been recently cleared, which may represent a worrying trend of new mine placement.

VIII. Humanitarian situation

30. Food security for the internally displaced persons resettled in the Gash Barka and Debub regions in Eritrea has improved, following the good rainy season (from June to September). The United Nations and its partners provided the resettled populations and internally displaced persons with farm tools, water and shelter. The Government of Eritrea and the United Nations have agreed on a plan to return and/or resettle some 11,000 remaining internally displaced persons in the Debub region in 2008, the availability of resources permitting.

31. Addressing the outbreak of acute watery diarrhoea in Ethiopia continues to be a major challenge, despite recent reports from the Ethiopian Government indicating some decrease of the condition nationwide. In the meantime, the Government and its international health partners expressed concern about the possibility of a large-scale outbreak of meningitis and Rift Valley fever.

32. Recent reports indicate that a growing number of Eritrean nationals are crossing the border into Ethiopia on a daily basis, reaching some 600 last November. According to the Office of the United Nations High Commissioner for Refugees, the number of these refugees, who are hosted at Shimelba refugee camp, numbered over 16,000 in December 2007.

33. The humanitarian situation in Shimelba camp continues to deteriorate owing to inadequate food rations and poor health service delivery. Although voluntary counselling and training centres have been established, the prevalence of HIV/AIDS continues to be a serious threat. In addition, lack of shelter and clothing for the refugees poses a major challenge. I appeal to the international donor community to provide humanitarian relief assistance for these refugees.

34. On 26 October, over 1,200 Ethiopian nationals living in Eritrea and 62 Eritrean nationals living in Ethiopia were voluntarily repatriated to their respective countries of origin under the auspices of the International Committee of the Red Cross with UNMEE assistance. It is essential that both parties ensure that such repatriations remain voluntary and are carried out in a proper and dignified manner.

IX. Public information

35. During the reporting period, local demand for information about UNMEE remained high. Public information activities relating to United Nations special days were well attended in both capitals and at the Mission's outreach centres in Ethiopia, in Addis Ababa, Mekelle and Adigrat. UNMEE outreach centres in Eritrea

have been closed since 2003. UNMEE news and the weekly radio programme continued to be printed and broadcasted in English and in the local languages, on a regular basis.

X. Conduct and discipline

36. Six minor cases of misconduct were reported in UNMEE during the reported period. In the meantime, UNMEE has been vigorously pursuing preventive and enforcement steps aimed at upholding the standards of conduct and the zero tolerance policy towards sexual exploitation and abuse. The Mission conducted the training of some 1,760 staff on sexual exploitation and abuse and other conduct-related matters.

XI. HIV/AIDS

37. The UNMEE HIV/AIDS Unit continued the induction training for UNMEE military and civilian personnel, along with awareness training for military contingents. Voluntary counselling and testing services were made broadly available to staff. In addition, focal points on the ground designated by UNMEE have enabled the provision of assistance to local residents in the Temporary Security Zone and areas adjacent to it.

XII. Financial aspects

38. The General Assembly, by its resolution 61/248 B of 29 June 2007, appropriated the amount of $113.5 million for the maintenance of UNMEE for the period from 1 July 2007 to 30 June 2008. Therefore, should the Security Council approve my recommendation set out in paragraph 42 below with respect to the extension of the mandate of UNMEE, the cost of the maintenance of the Mission during the extension period until 30 June 2008 will be limited to resources approved by the General Assembly.

39. As at 30 November 2007, unpaid assessed contributions to the special account for UNMEE amounted to $31.2 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $3,153.8 million. Reimbursement of troop and contingent-owned equipment costs has been made for the period up to October and September 2007, respectively, in accordance with the quarterly payment schedule.

XIII. Observations

40. In its twenty-sixth report (see annex II), the Eritrea-Ethiopia Boundary Commission affirmed that the boundary between Ethiopia and Eritrea now automatically stands as demarcated by the boundary points (coordinates) listed in the annex to the Commission's Statement of 27 November 2006, and that it considers this decision as binding on the parties. The Commission further asserted that it "has fulfilled its mandate and remains in existence in order to deal with any remaining administrative matters".

41. EEBC further reported "for this purpose, as within 45 days following notification to it of the death of Sir Arthur Watts, Ethiopia has not nominated a substitute Commissioner, the Secretary-General may wish to consider exercising his power of appointment pursuant to article 4, paragraph 4, of the Algiers Agreement of 12 December 2002. The filling of the vacancy would facilitate the discharge by the Commission of any request that might be made to it". Eritrea and Ethiopia, however, continue to express diverging views on the decisions of the Commission. While Ethiopia has acknowledged the Commission's decision to end its work and stated that it will not be necessary to appoint a replacement for Sir Arthur Watts, a member of the Commission, who passed away on 16 November 2007, Eritrea has urged the Commission to persist in its efforts to arrange placement of pillars on the ground. Furthermore, Eritrea has accepted the demarcation coordinates stipulated by the Commission as final and binding, and "as an important step forward towards the demarcation on the ground", while Ethiopia maintains that the coordinates are invalid "because they are not the product of a demarcation process recognised by international law".

42. Eritrea and Ethiopia bear the primary responsibility for resolving their border dispute and normalizing their relations for the benefit of their peoples. To achieve this, the parties have to summon the necessary political will to overcome their differences peacefully, without use or threat of force. Moreover, the parties have an obligation to comply with the Algiers Agreements, as well as resolutions of the Security Council, and to implement the decisions of the Boundary Commission. My offer of good offices to assist the two parties in this regard, as proposed in my letters of 20 November and 29 November to Prime Minister Meles Zenawi and President Isaias Afwerki, remains available. I also welcome recent public statements by Member States that have expressed their readiness to assist the two countries in the implementation of their obligations under international law.

43. I remain concerned about the continuing military build-up by the two parties in the border areas, which continues to create the risk of igniting hostilities. I therefore call upon the parties to comply with the demands of the Security Council, set out in its resolution 1767 (2007), particularly to de-escalate the situation, including by returning to the 16 December 2004 levels of deployment, put an end to the exchange of hostile statements, provide UNMEE with the necessary assistance, support and protection required for the performance of its duties, as well as the Council's demands that Eritrea immediately withdraw its troops and heavy military equipment from the Temporary Security Zone and reverse, without further delay or preconditions, all restrictions on UNMEE movement and operations to allow the Mission to effectively carry out its mandate.

44. The Military Coordination Commission can play an important role in the resolution of security-related issues between the two countries. I encourage the parties to resume the meetings of the Military Coordination Commission without further delay and to cooperate in the promotion of confidence-building measures, such as demining and facilitating the provision of humanitarian assistance to the populations in need.

45. While the restrictions imposed on UNMEE by the Government of Eritrea since September 2006 have severely hampered the Mission capacity to effectively implement its mandate, I am seriously concerned that, if not resolved immediately, the stoppage of fuel supplies since 1 December 2007 will completely immobilize the

Mission operations in the coming few weeks. In such an event, UNMEE would be compelled to relocate staff and equipment. It is regrettable that, under the present circumstances, UNMEE's capacity to fulfil its mandate remains severely handicapped by the restrictions imposed by Eritrea. The prevailing situation where the two parties continue to refuse to comply with their obligations under international law and to impose impediments that are virtually crippling UNMEE creates a serious dilemma. While the presence of UNMEE is essential in helping the parties to defuse potentially destabilizing incidents and in mitigating the risk of a widescale conflict, the mounting restrictions have reached a critical stage, which requires a decision from the Council concerning the future of UNMEE. In light of the restrictions on UNMEE operations, including the stoppage of fuel supplies to run the Mission, I recommend a one month technical roll-over of the mandate of UNMEE. In the meantime, I will review the developments on the ground and the challenges facing UNMEE, and prepare specific recommendations on the future direction of the Mission, including possible withdrawal or relocation.

46. In conclusion, I wish to express my gratitude to all civilian and military personnel of the Mission for their continued commitment, hard work and perseverance in an increasingly difficult and stressful working environment. I pay tribute to all partners of the Mission, the African Union, the Witnesses to the Algiers Agreements, and the Friends of UNMEE, as well as the United Nations country teams, humanitarian agencies and other international organizations, and individual Member States, for the support they continue to lend to the peace process. I also pay tribute to the late Sir Arthur Watts of the Eritrea-Ethiopia Boundary Commission, whose knowledge, expertise and judgement made a remarkable contribution to the work of the Commission. Finally, I would like to thank the troop-contributing countries for their sustained commitment to this important peacekeeping operation.

Annex I

United Nations Mission in Ethiopia and Eritrea: military contributions as at 1 January 2008

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support elements*
Algeria	8	0	0	8	
Austria	2	0	0	2	
Bangladesh	8	0	5	13	
Bolivia	3	0	0	3	
Bosnia and Herzegovina	5	0	0	5	
Brazil	7	0	0	7	
Bulgaria	4	0	0	4	
China	7	0	0	7	
Croatia	4	0	0	4	
Czech Republic	2	0	0	2	
Denmark	3	0	0	3	
Finland	5	0	0	5	
France	1	0	0	1	
Gambia	2	0	0	2	
Germany	2	0	0	2	
Ghana	10	0	4	14	
Greece	3	0	0	3	
Guatemala	6	0	0	6	
India	8	701	14	723	
Iran (Islamic Republic of)	3	0	0	3	
Jordan	8	559	11	578	
Kenya	9	114	4	127	
Kyrgyzstan	4	0	0	4	
Malaysia	7	0	3	10	
Mongolia	4	0	0	4	
Namibia	4	0	3	7	
Nepal	6	0	0	6	
Nigeria	7	0	2	9	
Norway	3	0	0	3	
Pakistan	5	0	0	5	
Paraguay	3	0	0	3	
Peru	4	0	0	4	
Poland	2	0	0	2	
Romania	5	0	0	5	
Russian Federation	3	0	0	3	

Country	*Military observers*	*Troops*	*Staff*	*Total*	*National support elements*
South Africa	5	0	0	5	
Spain	3	0	0	3	
Sri Lanka	4	0	0	4	
Sweden	3	0	0	3	
Tunisia	5	0	3	8	
Ukraine	3	0	0	3	
United Republic of Tanzania	8	0	2	10	
United States of America	5	0	0	5	
Uruguay	5	33	4	42	
Zambia	10	0	3	13	
Total	**218**	**1 407**	**58**	**1 683**	

Annex II

Twenty-sixth report of the Eritrea-Ethiopia Boundary Commission

1. This is the twenty-sixth, and probably final, report of the Eritrea-Ethiopia Boundary Commission, covering the period from 27 September to 31 December 2007. The previous report covered the period from 10 July to 26 September 2007.

2. The Commission must begin this report by recording with profound regret the passing of Sir Arthur Watts KCMG QC on 16 November 2007. His service to the Commission and to international law was unsurpassed, and he will be greatly missed. On 20 November 2007, the Commission notified the Parties of his death and informed them that, as Sir Arthur was appointed by Ethiopia, in accordance with articles 4 (6) and 4 (4) of the Algiers Agreement and article 11 of the Commission Rules of Procedure, Ethiopia had 45 days (until 4 January 2008) within which it might appoint a substitute Commissioner. Ethiopia has stated that it does not consider it necessary to appoint a replacement.

3. The Commission believes it important to recall the terms of paragraph 22 of its Statement of 27 November 2006:

> "As the Commission evidently cannot remain in existence indefinitely, it proposes that the Parties should, over the next 12 months, terminating at the end of November 2007, consider their positions and seek to reach agreement on the emplacement of pillars. If, by the end of that period, the Parties have not by themselves reached the necessary agreement and proceeded significantly to implement it, or have not requested and enabled the Commission to resume its activity, the Commission hereby determines that the boundary will automatically stand as demarcated by the boundary points listed in the Annex hereto and that the mandate of the Commission can then be regarded as fulfilled. Until that time, however, it must be emphasized that the Commission remains in existence and its mandate to demarcate has not been discharged. Until such time as the boundary is finally demarcated, the Delimitation Decision of 13 April 2002 continues as the only valid legal description of the boundary".

4. Notwithstanding the meeting on 6 and 7 September 2007, described in the Commission's previous report, no progress has been made towards the construction of boundary pillars in the manner foreseen in the above-mentioned Statement.

5. As the 30 November 2007 deadline approached, the Commission received letters from the Parties.

6. In a letter dated 19 November 2007, Eritrea maintained that the responsibility for the Commission's inability to proceed further with the physical demarcation lies squarely on the shoulders of the Ethiopian Government and its supporters. It affirmed Eritrea's acceptance of the procedure set out in the Commission's Statement of 27 November 2006 as an important step forward towards the demarcation on the ground and urged the Commission to proceed with the erection of pillars so as to bring the process to its natural conclusion. It stated, further, that it recognized UNMEE's important contribution to physical demarcation of the border and that it is prepared to extend unreserved cooperation to UNMEE.

7. In a letter dated 27 November 2007, Ethiopia recalled the Commission's statements that it would end its work on 1 December 2007, and stated that it respects the Commission's decision in this regard. It asserted that the demarcation coordinates set out in the Commission's Statement of 27 November 2006 "are invalid because they are not the product of a demarcation process recognized by international law". It suggested that "[t]o the extent [that] the parties are not in agreement as to how demarcation should proceed, the dispute resolution provisions of the Algiers Agreements apply". Ethiopia added some responses to Eritrea's letter of 19 November 2007, maintaining that Eritrea was responsible for creating a dangerous situation in the boundary region "by its blatant breaches of the Algiers Agreements" and stating that Eritrea "could end immediately the escalation of tensions noted in its letter by complying with its fundamental obligations under the Algiers Agreements". It characterized Eritrea's references to its willingness to "extend unreserved cooperation to UNMEE" as a "vague promise of cooperation with UNMEE [that] cannot be trusted". Ethiopia said further that "[d]espite Eritrea's intransigence, Ethiopia will continue to give peace a chance, and work for peaceful resolution of disputes and demarcation of the boundary in accordance with international law, including the Algiers Agreements, after the Commission ends its work". It concluded by saying that as "[t]he Commission's decision to end its substantive work automatically by November 30 has long been established and known by the parties ... it will not be necessary for Ethiopia to appoint a replacement for Sir Arthur Watts, and Ethiopia does not intend to do so".

8. Eritrea communicated a detailed response to Ethiopia's contentions in a letter to the Commission dated 29 November 2007, of which the following are some of the principal points:

- "Ethiopia is simply wrong in stating that 'neither Ethiopia nor Eritrea have accepted the Commission's November [27], 2006 demarcation coordinates as constituting a final, valid demarcation'. To the contrary, Eritrea acknowledges as both final and valid the coordinates that the Commission has specified and believes that these coordinates are as binding as other Commission decisions."
- "Eritrea believes ... that the Commission's decisions about how best to approach demarcation are not challengeable by a dissatisfied party ... Ethiopia is not entitled under the Algiers Agreement to second guess the Commission".
- Eritrea rejected Ethiopia's statement that the "implementation of the Commission's 2002 Delimitation Decision is now a matter for the parties". Eritrea observed that adherence to the Commission's decision "is not optional under the Algiers Agreement".
- Eritrea further observed that "it is Ethiopia and not Eritrea that is responsible for the fact that boundary pillars have not been erected".
- Recalling the statements made by Ethiopia at the meeting held on 6-7 September 2007, it added that Ethiopia has been in grave breach of the Algiers Agreement since the day that the Delimitation Award was announced and gave details of what it views as these breaches.

9. The texts of the above three letters, which are important to a balanced assessment of the positions of the Parties, are attached hereto.

10. For its part, the Commission feels obliged to reaffirm the considerations of fact and the statements of law set out in its Statement of 27 November 2006. The Delimitation Decision of 13 April 2002 and the Statement of 27 November 2006 remain binding on the Parties.

11. In stipulating that the boundary now automatically stands as demarcated by the boundary points listed in the annex to the 27 November 2006 Statement, the Commission considers that it has fulfilled the mandate given to it. It remains in existence in order to deal with any remaining administrative matters. For this purpose, as within 45 days following notification to it of the death of Sir Arthur Watts Ethiopia has not nominated a substitute Commissioner, the Secretary-General may wish to consider exercising his power of appointment pursuant to article 4, paragraph 4, of the Algiers Agreement of 12 December 2000. The filling of the vacancy would facilitate the discharge by the Commission of any request that might be made to it.

12. Signed copies of the maps illustrating the points identified in the annex to the 27 November 2006 Statement were officially sent to the Parties on 30 November 2007. A copy will presently be deposited with the United Nations and another copy for public reference will be retained in the office of the United Nations Cartographer.

13. As noted in the Commission's last report, Ethiopia continues to be in arrears in payment of its share of the Commission's expenses, in breach of article 4 (17) of the Algiers Agreement. The Registrar will presently send to the Parties an accounting recording the present financial position.

14. The Commission cannot conclude this report without expressing its appreciation of the outstanding support given to it by its Secretary, the United Nations Cartographer, Hiroshi Murakami, his successor, Kyoung-Soo Eom, and their Deputy, Alice Chow, and by the Registrar of the Commission, initially Bette Shifman, and her successor Dane Ratliff, of the Permanent Court of Arbitration, and their staff. In the work that the Commission was able to do in the field, it was greatly aided by the support of UNMEE, for which it is most grateful, as it is also to its Special Consultant, Bill Robertson, and its Chief Surveyor, Vincent Belgrave, for their highly skilled and experienced technical contribution. The Commission also recalls with gratitude the contributions of the donors to the United Nations Trust Fund for Eritrea and Ethiopia, which enabled it to continue its work.

(*Signed*) Sir Elihu **Lauterpacht**
President of the Eritrea-Ethiopia Boundary Commission

7 January 2008

Attachment I

Asmara, 19 November 2007

President Sir Elihu Lauterpacht
Eritrea Ethiopia Boundary Commission
Permanent Court of Arbitration
The Hague, The Netherlands

Dear President Lautherpacht,

Allow me to convey to you my best wishes for your personal well being.

It has been almost one year since the Eritrea Ethiopia Boundary Commission announced its decision to conclude the demarcation of its final and binding 13 April 2002 Delimitation Award by way of maps and coordinates ("virtual demarcation"). Eritrea understands the reasons for this decision: the Commission's practical inability to implement the Award in the manner envisaged in the Algiers Peace Agreement.

Your decision to do so has no doubt provoked a number of questions. It has also prompted various parties to speculate on and predict a number of scenarios and consequences.

As the Commission's deadline for the taking effect of this virtual demarcation is fast approaching, permit me to outline my observations and express Eritrea's position.

1. The past five and half years have been a period of dangerous impasse. Eritrea has continued to respect the rule of law and to uphold the integrity of the Algiers Peace Agreement; has accepted the final and binding Award without equivocation; and has patiently waited for the implementation of the Award through physical demarcation so as to bring the matter to closure. Encouraged by its supporters, however, the Government of Ethiopia has endeavoured to force renegotiation of the final and binding Award even while all along pretending to abide by the Algiers Agreement. The result has been an endless series of pretexts designed to frustrate the demarcation process, to paralyze the EEBC, and to force the adoption of an "alternative" mechanism. In the cynical views of the Ethiopian Government,

an interminable paralysis of the process would inevitably entail "the death of the lender, the death of the borrower, or the death of the broker culminating in the death of the process itself". In the meantime, Ethiopia continues to occupy Eritrean territories by force in violation of international law and the Algiers Agreement. But force - despite Ethiopia's best efforts – cannot be permitted to create a de facto situation. Our sovereign territories cannot remain under occupation through the violation of the rule of law.

2. President Lauterpacht, you are more familiar with the history of the current situation than anyone, and there is no need to rehearse in detail how we have come to where we stand today. Notwithstanding the Commission's best efforts, the Ethiopian Government has been able (with the support of third parties) to halt the implementation of the Award. As noted above, Eritrea has, in accordance with its treaty obligations, extended its unreserved cooperation to ensure the physical demarcation of the boundary. We wish it to be noted that responsibility for the Commission's inability to proceed further towards physical demarcation lies squarely on the shoulders of the Ethiopian Government and its external supporters.

3. Had the Algiers Agreement been respected, the final and binding Award fully accepted, and the demarcation of the boundary expeditiously completed, the peoples of Eritrea and Ethiopia would long ago have returned to their natural state of neighborliness and cooperation. Instead, the violation of the Agreement has not only embroiled the peoples of Eritrea and Ethiopia in conflict but also plunged the whole region in a spiral of dangerously escalating crisis. Again, we wish it to be noted that responsibility for the unremitting hostility and tension rests squarely on the shoulders of the Ethiopian Government and those that have encouraged its unlawful conduct.

4. The time and effort spent in the attempts to enforce the final and binding Award have been substantial. The efforts of the Commission, in particular, to bring the matter to closure are widely known and appreciated. Notwithstanding the justifiable frustration that the Commission no doubt feels, I urge the Commission to continue to shoulder this burden, with all its challenges, until the process is consummated. No other entity can fulfill the Commission's mandate to demarcate the boundary physically.

5. As far as "virtual demarcation" is concerned, there are obviously numerous questions that could be raised in regard to its meaning, content and implications. Mindful however, of the difficulties that the Commission already faces in carrying out its mandate, I choose simply to affirm, at this stage, Eritrea's acceptance of this procedure as an important step forward towards the demarcation on the ground. But since virtual demarcation does not represent completion of the process, I urge the Commission to persist until erection of pillars to bring the process to its natural conclusion.

6. As previously confirmed, we recognize UNMEE's important contribution, in combination with the efforts of other sources of technical support and expertise, in the tasks of physical demarcation of the boundary. In this spirit, Eritrea is prepared to extend unreserved cooperation to UNMEE.

In conclusion, let me add that I shall communicate to you a more detailed and technical statement of Eritrea's position reflecting advice from our legal Counsel concerning the meaning, contents and implications of "virtual demarcation".

Sincerely,

Isaias Afwerki

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Attachment II

The Federal Democratic Republic of Ethiopia

Ministry of Foreign Affairs

November 27, 2007

Dear President,

I am writing to convey my Government's views with respect to various issues of relevance to the Commission.

In its November 26, 2006 Statement and subsequent statements, including those appearing in the transcript of the most recent meeting of the Boundary Commission of September 6-7, 2007, and in the Commission's 25th Report to the Secretary-General of September 28, 2007, the Commission has repeatedly made clear its decision to end its work and existence on December 1, 2007, apart from any administrative details that might arise in that connection. This decision of the Commission was made and reconfirmed prior to the sudden death of Commissioner Sir Arthur Watts and, by its terms, was to take effect automatically. At our meeting in The Hague on September 6-7, neither party raised objection to the Commission's confirmation of its decision to end its work and existence upon the conclusion of this month. Ethiopia respects the Commission's decision in this regard.

As the Boundary Commission, the Secretary-General, and the United Nations Security Council have recognized, implementation of the Commission's 2002 Delimitation Decision is now a matter for the parties. The Commission found numerous occasions during our recent meeting to remind the parties that a number of obstacles to demarcation now remaining are of a political nature and exceed the scope of the Commission's mandate as the Commission understands it. Ethiopia has accepted without precondition the Delimitation Decision; yet neither Eritrea, nor Ethiopia have accepted the Commission's November 26, 2006 demarcation coordinates as constituting a final, valid demarcation. In Ethiopia's view, these demarcation coordinates are invalid because they are not the product of a demarcation process recognized by international law.

To the extent the parties are not in agreement as to how demarcation should proceed, the dispute resolution provisions of the Algiers Agreements apply. These require *inter alia* renunciation of the use of force and peaceful resolution through normal diplomatic interaction. This is not a "new mechanism" as charged by Eritrea. This is the mechanism for dispute resolution agreed to by both parties in the Algiers Agreements. Ethiopia takes its commitments in the Algiers Agreements seriously. It is time for Eritrea as well to conform its behavior to the commitments it has undertaken in the Algiers Agreements.

Although beyond the scope of the Commission's view of its mandate, certain comments in Eritrea's letter to the Commission of November 19, 2007, require a response for the record. Eritrea is responsible for creating a dangerous situation in the boundary region and preventing

demarcation by its blatant breaches of the Algiers Agreements. Eritrea has completely shattered the Agreement on Cessation of Hostilities. It has violated the provision for the separation of forces by positioning thousands of troops and weapons along the boundary. Eritrea is supporting terrorist groups and organizations carrying out activities in and against Ethiopia. Eritrea has virtually shut down UNMEE's operations. Eritrea could end immediately the escalation of tensions noted in its letter by complying with its fundamental obligations under the Algiers Agreements, namely, to discontinue its threats and use of force and resolve disputes through peaceful means, to allow UNMEE to fulfill its mission, and to remove its military forces from the Temporary Security Zone.

Yet Eritrea's letter makes no reference to removing its troops and ceasing its support of terrorist activities; and its vague promise of cooperation with UNMEE cannot be trusted. If Eritrea were committed to the peace process and to establishing a final boundary, it could fully restore the integrity of the Temporary Security Zone and UNMEE freedom of operations today and cease support of terrorist operations. Eritrea's refusal to do so has brought the situation to its current state.

It should not be overlooked, in this regard, that Eritrea is yet to respond to Ethiopia's Notification in which we made it clear that Ethiopia would exercise the peaceful and legal options available to it should Eritrea continue to refuse to return to full compliance with the Algiers Agreements. Despite Eritrea's intransigence, Ethiopia will continue to give peace a chance, and work for peaceful resolution of disputes and demarcation of the boundary in accordance with international law, including the Algiers Agreements, after the Commission ends its work.

Finally, may I say that Ethiopia has been deeply saddened by the sudden death of Sir Arthur Watts. His learning, wisdom, and good judgment have made a tremendous contribution to the work of the Boundary Commission. At this point, whatever work remains for the Commission is administrative. The Commission's decision to end its substantive work automatically by November 30 has long been established and known by the parties and the international community, including the Witnesses to the Algiers Agreements. This decision was reconfirmed during the Commission's September meetings in The Hague, in which Sir Arthur participated. Therefore, it will not be necessary for Ethiopia to appoint a replacement for Sir Arthur Watts, and Ethiopia does not intend to do so.

Please accept, Dear President, the assurance of my highest consideration.

Yours sincerely,

[redacted]
Foreign Minister

President Sir Elihu Lauterpacht
Eritrea Ethiopia Boundary Commission
Permanent Court of Arbitration
The Hague, The Netherlands

Attachment III

THE STATE OF ERITREA
LEGAL ADVISOR TO THE
OFFICE OF THE PRESIDENT

Sir Elihu Lauterpacht
President, Eritrea Ethiopia Boundary Commission
Permanent Court of Arbitration
The Hague, The Netherlands

29 November 2007

Dear President Lauterpacht;

Allow me to express our deep regret at your news of the passing of Sir Arthur Watts. I speak on behalf of both the Government of Eritrea and also myself personally in recognizing the great service that Sir Arthur performed as a member of the Eritrea Ethiopia Boundary Commission as well as to the wider practice of international law.

Eritrea finds it necessary, unfortunately, to answer Ethiopian Foreign Minister Seyoum Mesfin's letter of 27 November 2007. This letter's misstatements of fact, and Ethiopia's continuing efforts to undermine the finality of the Commission's decisions, require a response.

1. First, Ethiopia is simply wrong in stating that "neither Ethiopia nor Eritrea have accepted the Commission's November 26, 2006 demarcation coordinates as constituting a final, valid demarcation." To the contrary, Eritrea acknowledges as both final and valid the coordinates that the Commission has specified and believes that these coordinates are as binding as other Commission decisions. While Eritrea does hope that the Commission will persist in its efforts to arrange for placement of pillars on the ground, this is not because of any lack of finality or validity to the Commission's identification of coordinates.

Eritrea believes, moreover, that the Commission's decisions about how best to approach demarcation are not challengeable by a dissatisfied party. The Algiers Agreement is explicit that the parties are bound to honor the Commission's decisions; this includes the Commission's rulings concerning the best method for demarcation. Ethiopia is

apparently of the view that it has a right to review the Commission's choice of demarcation methods and needs honor only those that it agrees with. However, Ethiopia is not entitled under the Algiers Agreement to second guess the Commission, to conclude that its coordinates "are invalid because they are not the product of a demarcation process recognized by international law", or to insist that its own chosen methods be employed in place of the ones that the Commission adopted.

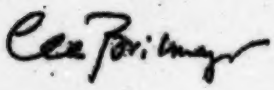
2. Second, Ethiopia is not correct to state that "implementation of the Commission's 2002 Delimitation Decision is now a matter for the parties." Adherence to the Commission's decisions is not optional under the Algiers Agreement. The Algiers Agreement makes the EEBC the sole method for resolving disputes over delimitation and demarcation. Article 4 paragraph 15 provides, "The parties agree that the delimitation and demarcation determinations of the Commission shall be final and binding..." It is for the parties to respect the Commission's decisions, not to attempt to renegotiate them.

3. Third, as the Commission is well aware, it is Ethiopia and not Eritrea that is responsible for the fact that boundary pillars have not been erected. At the Commission's meeting of 6-7 September 2007, Ethiopia demonstrated clearly once again its unwillingness to honor the Commission's decisions. Ethiopia at that meeting demanded that Eritrea fulfill an extraneous and ever-expanding set of preconditions, after which (it said) it would "discuss" whether to demarcate the boundary. Ethiopia stated clearly its rejection of the Commission's demarcation approach (an approach that includes a refusal to alter the delimitation line to reflect so-called "human geography") and it further rejected the Commission's instructions about what Ethiopia would have to do in order that demarcation might proceed. Eritrea, as will be recalled, pledged complete cooperation with these instructions.

Ethiopia has been in grave breach of the Algiers Agreement almost since the day that the 2002 Delimitation Award was first announced. Ethiopia's longstanding treaty violations include: failure to remove the unlawful settlements that it placed on the Eritrean side of the boundary in the summer of 2002; refusal to pay its financial assessments to support the Commission's work; and instances of physical interference with the Commission's technical team too numerous to list. It goes without saying that Ethiopia is not entitled first to make it impossible to place boundary pillars and then to insist that the Commission's approach is invalid because it did not complete the task of pillar emplacement that Ethiopia itself made impossible.

Eritrea therefore requests that the Commission specifically reiterate, as provided in the Algiers Agreement, that (1) Ethiopia is bound by its demarcation decisions, just as it is bound by the delimitation Award; (2) Ethiopia's claim to have a right to terminate the Algiers Agreements can have no effect on the finality of the Commission's decisions, whether relating to demarcation or to delimitation; and (3) the methodology and coordinates that the Commission has identified are final and binding under Article 4 paragraph 15 of the Algiers Agreement. The Commission should reaffirm at this juncture the finality and validity of the coordinates and methodology that it had adopted, as well as Ethiopia's obligation to respect them.

Sincerely,



Professor Lea Brilmayer
Legal Advisor to the President of Eritrea

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United Nations S/2008/40/Corr.1

Security Council

Distr.: General
24 January 2008

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Report of the Secretary-General on Ethiopia and Eritrea

Corrigendum

1. Paragraph 13, third sentence

For restrained themselves *read* refrained

2. Paragraph 13, last sentence

For compounded *read* impounded

3. Paragraph 22

The last sentence *should read*

The letter states that "UNMEE has now been left, after five and a half years, with no option other than 'maintaining occupation'". The letter also urges the Security Council to compel the evacuation of the "army and institutions of the Ethiopian regime occupying our sovereign territories to prevent other unnecessary developments".

4. Paragraph 38

The second sentence *should read*

Therefore, should the Security Council approve my recommendation set out in paragraph 45 below with respect to the extension of the mandate of UNMEE, the cost of the maintenance of the Mission during the extension period until 30 June 2008 will be limited to resources approved by the General Assembly.

5. Paragraph 41, first sentence

For 2002 *read* 2000

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